

## **Planning Lunches at Noon (PLAN) Monthly Webinar Series**

**Welcome to the PLAN Monthly Webinar Series!**

The webinar will begin shortly. Please mute and turn off camera.

**Check out our Planning and Zoning Training website page for:**

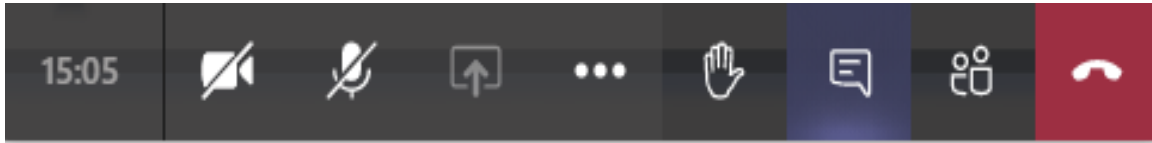
- Slides and recording of all completed webinars in the PLAN series
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**[www.nh.gov/osi/planning/planning-training.htm](http://www.nh.gov/osi/planning/planning-training.htm)**

# Webinar Logistics

- Presentation then Question and Answer session
  - Type questions into Chat box

Open Chat box



Leave

# It's Zoning Amendment Time

**August 19, 2021**

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NH Office of Planning & Development**

**Stephen C. Buckley, Legal Services Counsel  
New Hampshire Municipal Association**

# Agenda

- Why and how do we have zoning?
  - What is a zoning amendment?
- Zoning Ordinance relationship to other municipal regulations
  - Floodplain Map Adoption Exception
- What to consider for Zoning Amendments
  - Who starts the process?
  - Legislative Body Process
  - Notification requirements
    - Ballot Requirements
  - Q&A

# Why do we have Zoning?

- In 1916, New York City adopted the first zoning regulations to apply citywide as a reaction to construction of the Equitable Building (which still stands at 120 Broadway).



# What is Zoning?

## How do we get it?

- Zoning=Set of local laws (the Zoning Ordinance) enacted by the legislative body (Town Meeting, City/Town Council) of a municipality for dividing its land into zones for different uses that are designed to protect public health, safety, and welfare and to guide growth.
- Zoning regulates building height, lot sizes, density, location and use of land and buildings. RSA 674:16
- Zoning Amendment= the addition, deletion, or revision of language in the zoning ordinance.

# Zoning Ordinance and other Land Use Regulations

- Zoning in relation to planning and other land use regulations-
    - Planning Board- 673:1
    - Planning Board adopts board By laws and Master Plan (Vision and Land Use)
    - Legislative body adopts Zoning Ordinance
- After Adoption of Zoning Ordinance:
- Power to Review Site Plans-674:43

# Other Land Use Regulations cont'd

- All land use plans and regulations should be in sync
  - Master Plan
  - Zoning Ordinance
  - Subdivision Regulations
  - Site Plan Regulations
  - Excavation Regulations
  - Driveway Regulations
  - Floodplain Ordinance
- **Practice Pointer-Do an annual review of the ZO against master plan and other land use regulations for consistency and to weed out conflicts**



# Floodplain and Zoning Ordinances

- RSA 674:57 allows the municipality's governing body to adopt a resolution at a scheduled meeting to officially adopt new FEMA maps and study. Amendment to the FEMA map date language can then be revised in the ordinance and shall require no further action by local legislative body.

# What to Consider for Zoning Amendments

- Review sections that have resulted in multiple variances or special exceptions – coordinate with zoning board/CEO.
- Talk with other municipal boards and staff
- Review Table of Permitted Uses and Definitions. (APA, Dictionary)
- Review other land use regulations against the zoning ordinance. Floodplain mapping
- State regulatory changes (CSPA, Wetlands)
- **Practice Pointer- utilize a “Housekeeping Clause”**

# Best Practices for Consideration of Zoning Amendments

- Start early in the process-in the summer
- Consider adding Work Sessions to monthly meetings
- Don't propose an amendment that will conflict with other sections of the ZO, the Master Plan, or other land use regulations
- Don't take on too many amendments
- Take advantage of RSA 676:12.
- Keep a running list of potential amendments all year

# Initiation of Zoning Amendments

- The planning board (RSA 674:1, V)
- The governing body (RSA 675:3, VIII)
- Petitioned Zoning Amendment (RSA 675:4)
- Zoning amendment language
- Represent the proposed amendment

# How and When Zoning Ordinances are Amended

- In towns a zoning ordinance may be adopted or amended by ballot vote of a majority of the voters present and voting at an annual or special town meeting
- In cities and town council towns, the municipal charter determines how a zoning ordinance is to be adopted or revised, although a public hearing on any amendment must be held before adoption
- Petitioned zoning amendments may only be voted on at the annual town or district meeting

# Legislative Body Processes

- Petitioned zoning amendments must be received between 120 and 90 days before town meeting (the 2nd Tuesday in March, April or May)
- The Planning Board must hold at least one public hearing on all proposed zoning amendments
- Final proposed zoning amendments placed on file with town clerk and made available for public inspection by the 5th Tuesday before town meeting

# City & Charter Municipalities

- In cities, zoning adopted by the city council or board of aldermen
- Hooksett & Peterborough– zoning adopted by voters of the town
- Bedford, Derry, Durham, Londonderry, Merrimack & Newmarket – zoning adopted by elected town council
- Ability to submit petitioned zoning amendments in charter municipalities depends on the charter

# Public Hearing Requirements

- For both charter municipalities and town meeting towns-must hold at least one public hearing on all zoning amendments
- For town meeting towns a second public hearing 14 days after a prior public hearing shall be held if the proposed amendment is substantively altered by the planning board after the public hearing



# Public Hearing Notice Requirements (675:7)

- 10 calendar day notice (excluding day of posting and hearing) before public hearing
- Notice also posted in 2 public places in municipality
- Any person owning property in town can request notice of all public hearings of zoning amendments, and such notice must be provided electronically or by 1st class mail at no cost to recipient
- Notice also published in newspaper in general circulation in municipality, or, in the alternative posted on home page of town's website
- Full text of the amendment not required provided the notice adequately describes the amendment and states a place where the full text is on file for public inspection.

# Notification and Mailing Requirements

- Does amendment change boundary of zoning district that affects 100 or fewer properties? If yes, notice of the public hearing must be mailed to the owners of each affected property
- Does amendment change minimum lot sizes or permitted uses in a zoning district that has 100 or fewer properties? If yes, notice must be sent to the owner of each property in the district
- Notice must be sent by 1st Class mail to address used for property tax bills
- In the case of petitioned zoning amendments the petitioner must pay for the cost of notice required under RSA 675:7, I-a

# Petitioned Zoning Amendments

- 25 voters can petition to amend or repeal a provision of the zoning ordinance
- Petitions are submitted to the select board or village district commissioners who timely forward to planning board
- At first planning board meeting after the petition period the board shall set the date for the public hearing on the petition
- Petitioned amendments cannot be altered by planning board, but the board shall state if it approves or disapproves on the ballot question

# Official Ballot Requirements (675:3)

- The municipal clerk with assistance from the planning board prepares the question for the official ballot
  - Are you in favor of the adoption of the amendment to the town zoning ordinance as proposed by the planning board as follows: (insert topical description)?”
- An official copy of the final proposal to amend the zoning ordinance shall be placed on file and made available to the public at the town or village clerk's office not later than the fifth Tuesday prior to the date when action is to be taken.
- Zoning amendments cannot be amended after the final Planning Board meeting.

# Resources

- [American Planning Association \(APA\) website](#)
- [Webster's Dictionary](#)
- [OPD](#) and [NHMA](#) websites for Zoning Amendment Calendars and resource information
- [OPD Municipal Land Use Regulation Survey](#)
- Notable RSAs:
  - Chapter 39 Time for Holding Town Meetings and Warning Thereof
  - Chapter 40 Government of Town Meeting

# Resources cont'd

- Chapter 672 General Provisions;
  - 672:1 Declaration of Purpose
- Chapter 675-Enforcement and Adoption Procedures
- Chapter 676-Administrative and Enforcement Procedures
  - 676:12 Building Permits Withheld in Certain Cases.
  - 676:12, I(a) & (b); 676:12,VI

# Contact Information

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# Question and Answer Session

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Chat box